

руху має неабияке прикладне значення для його врахування сторонами кримінального провадження та судом, а також для проведення подальших наукових досліджень в аналізованій сфері.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Звіт про кількість осіб, засуджених, виправданих, справи щодо яких закрито, неосудних, до яких застосовано примусові заходи медичного характеру та види кримінального покарання за 2017 рік. Державна судова адміністрація України. Форма 6. Київ, 2018.
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docent of the Department of Criminal and Criminal
Procedural Law of the National University
“Kyiv-Mohyla Academy”, Kyiv**DISCHARGE FROM SERVICE OF SENTENCE FOR VIOLATION
OF THE RULES OF SAFETY OF ROAD TRANSPORT**

In the paper theoretical and applied issues of discharge from serving a sentence for violations of traffic safety rules (Clauses 2, 3, Article 286 CC) are studied. On the basis of the study of special literature, it was concluded that the issues of applying for exemption from serving a sentence with a trial for these crimes were insufficiently investigated. It is stated that despite the severity of the consequences of an accident, those convicted of these crimes are often exempted from serving a sentence with a trial. On the basis of the study of 390 judgments approved by the courts of Ukraine during 2006–2018, in cases of violations of traffic safety or transport operation, circumstances were established that characterize the gravity of the crime, the person guilty and other circumstances of the case, which are taken into account by the courts when applied (refusal to apply, cancellation of application) Art. 75 Criminal Code in this category of cases, as well as the issues of law enforcement in this area.

The study of cases shows that in justifying the decision to release from serving a sentence with a trial for the crimes analyzed, the courts noted five circumstances that characterize the gravity of the crime: difficult traffic situation, unlawful behavior of another participant in the traffic, provision of medical assistance to the victim in an accident, voluntary compensation to the injured party (elimination of the harm caused), and also accentuated the negligence of the actions of the perpetrator. At the same time, in the abolition of decisions on the application of exemption from serving a sentence with trial, the courts of appeal and cassation in cases of these crimes attach significant importance to the number of victims as a result of road traffic accident, the roughness and the number of violations of these rules guilty, the circumstances of the crime, to endure grave consequences in the form deaths of victims and negatively assess the non-reparation of guilty voluntarily victims of damages (elimination of the harm caused).

The most common circumstances characterizing the identity of the perpetrator, which courts are referred when applying Art. 75 of the Criminal Code in cases of violations of the rules of road safety is the acknowledgment of guilt, his sincere repentance, active assistance in the disclosure of the crime, the commission of the crime for the first time, the positive characteristic of the convicted person, his unsatisfactory health status and disability (often caused by the consequences of an accident) and employment, the presence of the guilty family and the abandonment of children (which remained, in particular, after the death of his wife in an accident).

Consequently, the study of the analyzed problem shows that the exemption from serving a sentence with a trial (Article 75 CC) in cases of violations of traffic safety rules (Clause 2.3 of Article 286 of the Criminal Code) applies mainly to convicts who: committed a crime in sober; in a difficult road environment or in a situation of violation of traffic safety rules or operation of transport by another its participant; which did not cause serious consequences in the form of the death of many people; acknowledged guilty and really deeply regretted and actively contributed to the disclosure of the crime; voluntarily recover damages; are positively characterized by their place of residence, work or study; work (study); have a family and the maintenance of minors or disabled parents; have an

unsatisfactory state of health (in particular, due to road accidents that they have committed), and victims of crime do not insist on isolating them from society.

Keywords: crimes in the sphere of traffic safety; exemption from punishment with a probation; exemption from serving a punishment with the probation for crimes in the field of traffic safety.

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